



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2012-0989; FRL-9912-88-Region 5]**

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment of the 2008 Eight-Hour Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to disapprove a December 5, 2012, request from the state of Indiana to redesignate Lake and Porter Counties to attainment of the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS or standard) because Indiana has not demonstrated that the Chicago-Naperville, Illinois-Indiana-Wisconsin (IL-IN-WI) ozone nonattainment area (Chicago nonattainment area), which includes Lake and Porter Counties, has attained this NAAQS. EPA proposes to take no action on Indiana's ozone maintenance plan and Motor Vehicle Emission Budgets (MVEBs), submitted with Indiana's ozone redesignation request, since approval of these State Implementation Plan (SIP) components is contingent on the attainment of the ozone standard.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2012-0989, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail*: [Mooney.John@epa.gov](mailto:Mooney.John@epa.gov).
- *Fax*: (312) 692-2551.
- *Mail*: John Mooney, Chief, Air Programs Branch (AR-18J), U.S.

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

- *Hand Delivery*: John Mooney, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th Floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2012-0989. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity

or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects and viruses. For additional instructions on submitting comments, go to section I of the SUPPLEMENTARY INFORMATION section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty at (312) 886-6057 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Edward Doty, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, or [Doty.Edward@epa.gov](mailto:Doty.Edward@epa.gov).

**SUPPLEMENTAL INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider As I Prepare My Comments for EPA?
- II. What Actions is EPA Proposing?
- III. What is the Background for These Actions?
- IV. What Are the Criteria for Redesignation to Attainment?
- V. What is EPA's Analysis of the State's Request?
- VI. Statutory and Executive Order Reviews

**I. What Should I Consider As I Prepare My Comments for EPA?**

When submitting comments, remember to:

- 1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- 2. Follow directions - EPA may ask you to respond to specific questions or to organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- 3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified in the proposed rule.

## **II. What Actions is EPA Proposing?**

EPA is proposing to disapprove Indiana's December 5, 2012, ozone redesignation request for Lake and Porter Counties for the 2008 eight-hour ozone NAAQS because the Chicago nonattainment area continues to violate this standard based on the most recent three years (2011-2013) of quality assured, state-certified monitoring data for this ozone nonattainment area. Because this area continues to violate the 2008 ozone NAAQS, we cannot approve the ozone maintenance plan and MVEBs included in Indiana's December 5, 2012, submittal. We are proposing to take no action on the maintenance plan and MVEBs at this time.

## **III. What is the Background for These Actions?**

EPA has determined that ground-level ozone ( $O_3$ ) is detrimental to human health. On March 27, 2008 (73 FR 16436), EPA promulgated an eight-hour ozone NAAQS of 0.075 parts per million parts of air (0.075 ppm) (the 2008 eight-hour ozone NAAQS or standard). This standard is violated in an area when any monitor in the area records eight-hour ozone concentrations with a three-year average of the annual fourth-highest daily maximum eight-hour ozone concentrations that equals or exceeds 0.076 ppm.

Ground-level ozone is generally not emitted directly by sources. Rather, emitted Oxides of Nitrogen ( $NO_x$ ) and Volatile Organic Compounds (VOC) react in the presence of sunlight, particularly under warm conditions, to form ground-level ozone, as a secondary pollutant, along with other secondary compounds.  $NO_x$  and VOC are "ozone precursors." Reduction of peak ground-level ozone concentrations is achieved through controlling VOC and  $NO_x$  emissions.

Section 107 of the Clean Air Act (CAA) required EPA to designate as nonattainment any area that violated the 2008 eight-hour ozone standard. EPA promulgated designations and classifications for this standard for most areas on May 21, 2012 (77 FR 30088). However, in that rulemaking (77 FR 30091), EPA noted that the designation of the Chicago area was being delayed, pending review of 2011 ozone data certified by the

state of Illinois in a December 7, 2011, letter. On June 11, 2012 (77 FR 34221), EPA promulgated the designation of the Chicago area as nonattainment for the 2008 eight-hour ozone standard with a classification of marginal nonattainment based on the review of 2009-2011 ozone data from Illinois and 2008-2010 data from Indiana and Wisconsin.<sup>1</sup> This review showed a violation of the standard at the Zion, Illinois monitoring site. The Chicago nonattainment area includes Cook, DuPage, Kane, Lake, McHenry and Will Counties, Aux Sable and Goose Lake Townships in Grundy County, and Oswego Township in Kendall County in Illinois, Lake and Porter Counties in Indiana, and the area east of and including the corridor of Interstate 94 in Kenosha County, Wisconsin.

#### **IV. What Are the Criteria for Redesignation to Attainment?**

The CAA provides the basic requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA authorizes redesignation provided that: (1) the Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable state

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<sup>1</sup> The states of Indiana and Wisconsin failed to certify 2011 ozone data by a February 29, 2012, deadline imposed by the EPA in December 9, 2011, letters to state governors notifying the states of EPA's preliminary responses to state-recommended area designations for the 2008 eight-hour ozone standard. The letters to the governors of Illinois, Indiana, and Wisconsin informed these states of EPA's intention to designate the Chicago area as nonattainment based on the monitored 2009-2011 ozone standard violation at the Zion, Illinois monitoring site.

implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and, (5) the state has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070).

Two significant policy documents affecting the review of ozone redesignation requests are the following: (1) "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the September 4, 1992 Calcagni memorandum); and, (2) "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995 (the May 10, 1995 Clean



Data Policy memorandum). Additional guidance on processing redesignation requests is included in the following documents:

- "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms, Chief Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
- "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
- "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (Act) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
- "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
- "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

- "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993; and,
- "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

**V. What is EPA's Analysis of the State's Request?**

EPA is proposing to disapprove Indiana's ozone redesignation request for Lake and Porter Counties with a determination that the Chicago nonattainment area continues to violate the 2008 eight-hour ozone standard based on quality assured, state-certified ozone data for 2010-2013. Indiana's ozone redesignation request fails to meet the critical air quality requirement of section 107(d)(3)(E)(1) of the CAA. The basis for EPA's proposed disapproval of the redesignation request is discussed in more detail as follows.

**A. Has the Chicago Area Attained the 2008 Eight-Hour Ozone NAAQS?**

An area may be considered to attain the 2008 eight-hour ozone NAAQS if there are no violations of the NAAQS, as determined in accordance with 40 CFR 50.10 and appendix P, based on the most recent three consecutive years of complete, quality-

assured air quality monitoring data at all ozone monitoring sites in the area. To attain this standard, the average of the annual fourth-high daily maximum eight-hour averaged ozone concentrations measured and recorded at each monitoring site in the area over the most recent three-year period (the monitoring site's ozone design value) must not exceed 0.075 ppm. The data must be collected and quality-assured in accordance with 40 CFR part 58, and must be recorded in EPA's Air Quality System (AQS). The ozone monitoring data considered here meet these certification criteria. All ozone monitoring data considered here have been certified by the states of Illinois, Indiana, and Wisconsin.

As part of the December 5, 2012, ozone redesignation request, the Indiana Department of Environmental Management (IDEM) summarized the annual fourth-high daily maximum eight-hour ozone concentrations and three-year eight-hour ozone design values for the period of 2006-2011 for all ozone monitoring sites in the Chicago nonattainment area.

Since the December 5, 2012, submittal of Indiana's ozone redesignation request, 2012 and 2013 ozone data have been quality-assured and certified by the states of Illinois, Indiana, and Wisconsin and entered into AQS. These data, along with the ozone data summarized in Indiana's ozone redesignation

request, must be considered in the review of Indiana's ozone redesignation request.

Table 1 summarizes the monitoring site-specific annual fourth-high daily maximum eight-hour ozone concentrations for all monitoring sites in the Chicago-Naperville, IL-IN-WI area for the period of 2006-2013. Note that the 2012 and 2013 ozone data were obtained from EPA's AQS, whereas the 2006-2011 ozone data were documented in Indiana's ozone redesignation request and are confirmed by ozone monitoring data contained in AQS.

**Table 1. Annual Fourth-High Daily Maximum Eight-Hour Ozone Concentrations for Monitoring Sites in the Chicago-Naperville, Illinois-Indiana-Wisconsin Ozone Nonattainment Area (ppm)**

Site/ Site Number	County	2006	2007	2008	2009	2010	2011	2012	2013
<b>Indiana</b>									
Gary 180890022	Lake	0.073	0.085	0.062	0.058	0.064	0.066	0.078	0.064
Hammond 180892008	Lake	0.075	0.077	0.068	0.065	0.069	0.072	0.077	0.063
Whiting 180890030	Lake	0.081	0.088	0.062	0.062	0.069	0.069	0.081	0.062
Ogden Dunes 181270024	Porter	0.070	0.084	0.069	0.067	0.067	0.068	0.081	0.069
Valparaiso 181270026	Porter	0.071	0.080	0.061	0.064	0.061	0.063	0.067	0.063
<b>Illinois</b>									
Alsip 170310001	Cook	0.078	0.085	0.066	0.069	0.073	0.071	0.079	0.064
Chicago - Southwest Filtration Plant 170310032	Cook	0.075	0.082	0.067	0.065	0.074	0.079	0.091	0.071
Chicago - Ellis Avenue 170310064	Cook	0.070	0.079	0.063	0.060	0.071	0.074	0.081	0.058
Chicago - Ohio Street 170310072	Cook	0.065	0.075	0.063	0.062	0.071	0.074	0.090	NA
Chicago - Lawndale 170310076	Cook	0.075	0.080	0.066	0.067	0.068	0.073	0.081	0.062
Chicago - Hurlbut Street 170311003	Cook	0.077	0.079	0.064	0.064	0.070	0.067	0.079	0.066
Lemont 170311601	Cook	0.070	0.085	0.071	0.067	0.073	0.069	0.081	0.064

Cicero 170314002	Cook	0.060	0.068	0.060	0.067	0.068	0.072	0.083	0.063
Des Plaines 170314007	Cook	0.065	0.078	0.057	0.057	0.064	0.065	0.073	0.067
Northbrook 170314201	Cook	0.068	0.076	0.065	0.069	0.072	0.076	0.087	0.069
Evanston 170317002	Cook	0.072	0.080	0.058	0.064	0.067	0.078	0.093	0.069
Lisle 170436001	DuPage	0.062	0.072	0.057	0.059	0.064	0.068	0.093	0.063
Elgin 170890005	Kane	0.062	0.075	0.061	0.068	0.069	0.070	0.075	0.064
Zion 170971007	Lake	0.068	0.080	0.069	0.075	0.078	0.076	0.093	0.072
Cary 171110001	McHenry	0.057	0.074	0.065	0.066	0.065	0.071	0.077	0.065
Braidwood 171971011	Will	0.068	0.071	0.060	0.063	0.065	0.061	0.071	0.061
<b>Wisconsin</b>									
Chiwaukeee Prairie 550590019	Kenosha	0.079	0.085	0.072	0.071	0.081	0.081	0.092	0.075

Table 2 gives the three-year averages of the annual fourth-high daily maximum eight-hour ozone concentrations for each monitoring site, the monitoring sites' ozone design values.

**Table 2. Three-Year Averages of the Annual Fourth-High Daily Maximum Eight-Hour Ozone Concentrations for Monitoring Sites in the Chicago-Naperville, Illinois-Indiana-Wisconsin Ozone Nonattainment Area (ppm)**

Site/ Site Number	2006-2008	2007-2009	2008-2010	2009-2011	2010-2012	2011-2013
<b>Indiana</b>						
Gary 180890022	0.073	0.068	0.061	0.062	0.069	0.069
Hammond 180892008	0.073	0.070	0.067	0.068	0.073	0.070
Whiting 180890030	<b>0.077</b>	0.070	0.064	0.064	0.073	0.070
Ogden Dunes 181270024	0.074	0.073	0.067	0.067	0.072	0.072
Valparaiso 181270026	0.070	0.068	0.062	0.062	0.064	0.064
<b>Illinois</b>						
Alsip 170310001	<b>0.076</b>	0.073	0.069	0.071	0.074	0.071
Chicago - Southwest Filtration Plant 170310032	0.074	0.071	0.068	0.068	<b>0.081</b>	<b>0.080</b>
Chicago - Ellis Avenue	0.071	0.067	0.064	0.068	0.075	0.071

170310064						
Chicago - Ohio Street 170310072	0.067	0.066	0.065	0.069	<b>0.078</b>	<b>NA</b>
Chicago - Lawndale 170310076	0.073	0.071	0.067	0.069	0.074	0.072
Chicago - Hurlbut Street 170311003	0.073	0.069	0.066	0.067	0.072	0.070
Lemont 170311601	0.075	0.074	0.070	0.069	0.074	0.071
Cicero 170314002	0.063	0.065	0.065	0.069	0.074	0.072
Des Plaines 170314007	0.066	0.064	0.059	0.062	0.067	0.068
Northbrook 170314201	0.069	0.070	0.068	0.072	<b>0.078</b>	<b>0.077</b>
Evanston 170317002	0.070	0.067	0.063	0.069	<b>0.079</b>	<b>0.080</b>
Lisle 170436001	0.063	0.062	0.060	0.063	0.069	0.068
Elgin 170890005	0.066	0.068	0.066	0.069	0.071	0.069
Zion 170971007	0.072	0.075	0.074	<b>0.076</b>	<b>0.082</b>	<b>0.080</b>
Cary 171110001	0.065	0.068	0.065	0.067	0.071	0.071
Braidwood 171971011	0.066	0.064	0.063	0.063	0.066	0.064
<b>Wisconsin</b>						
Chiwaukee Prairie 550590019	<b>0.078</b>	<b>0.076</b>	0.074	<b>0.077</b>	<b>0.085</b>	<b>0.082</b>

As can be seen from table 2, the 2008 eight-hour ozone standard is currently violated at the following sites in the Chicago area: (1) Chicago-Southwest Filtration Plant; (2) Northbrook; (3) Evanston; (4) Zion; and (5) Chiwaukee Prairie. In addition, the most recent three-years of quality assured, state certified ozone data (2010-2012) available for the Chicago-Ohio Street monitoring site show a violation of the 2008 ozone standard (the 2013 ozone data for this monitoring site are incomplete and not available to assess the attainment of the

ozone standard). This shows that the Chicago nonattainment area has not attained the 2008 eight-hour ozone standard.

IDEM based the state's ozone redesignation request on the lack of ozone standard violations in Lake and Porter Counties. IDEM, however, has failed to demonstrate that the 2008 eight-hour ozone standard has been attained throughout the Chicago nonattainment area. The quality-assured and state certified ozone data for 2011-2013 show a violation of the 2008 eight-hour ozone standard in the Chicago nonattainment area. Preliminary 2014 ozone data also indicate that multiple monitors in the Chicago nonattainment area continue to violate the 2008 ozone standard for the period of 2012-2014. Therefore, Indiana's ozone redesignation request fails to meet the first, and most important, criterion for the approval of ozone redesignation requests: attainment of the 2008 eight-hour ozone standard throughout the entire nonattainment area.

**B. Has Indiana Submitted An Approvable Ozone Maintenance Plan and Approvable Motor Vehicle Emission Budget?**

To be approvable, an ozone maintenance plan, in part, must demonstrate that the ozone standard will be maintained in the ozone nonattainment area for at least 10 years after EPA approves the state's ozone redesignation request. A critical component of ozone maintenance plans is an ozone attainment emissions inventory documenting the VOC and NO<sub>x</sub> emissions

inventory for the period in which the area has attained the ozone standard. The ozone maintenance demonstration usually involves the demonstration that future (during the 10 years after redesignation) VOC and NO<sub>x</sub> emissions will be at or below the attainment emissions. Indiana's ozone redesignation request contains such an ozone maintenance demonstration.

Since the Chicago ozone nonattainment area continues to violate the 2008 eight-hour ozone standard, we cannot conclude that Indiana has developed an acceptable attainment year emissions inventory. This means that the ozone maintenance demonstration portion of the ozone maintenance plan is unacceptable.

Since the estimation of the VOC and NO<sub>x</sub> MVEBs depends on the determination of mobile source emissions that, along with other emissions in the nonattainment area, provide for attainment of the ozone standard, and since the Chicago nonattainment area continues to violate the 2008 eight-hour ozone standard, we conclude that Indiana's estimates of the VOC and NO<sub>x</sub> MVEBs are also not acceptable.

We are not proposing action on Indiana's ozone maintenance demonstration and plan and MVEBs at this time. However, we note that, if we were to propose actions on these ozone redesignation request elements, we would find it necessary to propose disapproval.



## **VI. Statutory and Executive Order Reviews**

### **Executive Order 12866: Regulatory Planning and Review**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, therefore, is not subject to review by the Office of Management and Budget.

### **Paperwork Reduction Act**

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### **Regulatory Flexibility Act**

This action merely disapproves state law as not meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### **Unfunded Mandates Reform Act**

Because this rule disapproves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small

governments, as described in the Unfunded Mandate Reform Act of 1995 (Pub. L. 104-4).

**Executive Order 13132: Federalism**

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely disapproves a state rule, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

**Executive Order 13175: Consultation and Coordination With Indian Tribal Governments**

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

**Executive Order 13045: Protection of Children From Environmental Health and Safety Risks**

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it disapproves a state rule.

**Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use**

Because it is not a "significant regulatory action under Executive Order 12866 or a "significant energy action," this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

**National Technology Transfer Advancement Act**

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

**List of Subjects**

**40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

**40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 18, 2014.

Susan Hedman,  
Regional Administrator, Region 5.

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